

### **REMARKS**

This response is submitted in reply to the Final Office Action from the United States Patent and Trademark Office dated August 3, 2009 ("the Action"). Claims 1-24, 51-53 and 61-76 were pending in the application. This reply is to place the application into condition for allowance.

#### **I. The Allowed Claims**

Applicant acknowledges, with appreciation, the Examiner's allowance of Claims 5, 14 and 72-75.

#### **II. The Allowable Claims**

Claims 24 and 63-65 are stated to be allowable if rewritten into independent form incorporating the base claim and any intervening claims. Applicant has amended Claim 24 and Claim 63 accordingly. Claims 64 and 65 depend from Claim 63. Applicant respectfully submits that Claims 24 and 63-65 are in condition for allowance.

#### **III. The 112, First Paragraph Rejection**

Claim 1 was rejected for the use of the term "pre-defined" which the Action alleges is not supported in the original specification (*e.g.*, a new matter rejection). As Claims 24 and 63 incorporated base Claim 1, Applicant is addressing this rejection.

While the *ipsis verbis* term may not be in the specification, Applicant believes it is clear that the specification describes how to analyze dry powder to identify and select resonant frequencies and these frequencies are thus "pre-defined." *See, e.g.*, pp. 16-17.

However, Applicant has amended the subject matter of Claim 1 in Claims 24 and 63 in a non-narrowing manner to obviate this issue.

#### **IV. The 102 and 103 Rejections**

In order to advance prosecution, Applicant has canceled the rejected claims to place the application in condition for allowance. However, Applicant continues to disagree with the art rejections.

In response to Applicant's prior arguments, the Action states at page 5 (para. 10) that Abrams teaches the use of a carrier frequency modulated by a plurality of different frequencies at col. 6, lines 34-39. Applicant strongly disagrees.

Abrams proposes a signal that is tuned to the resonant vibratory frequency of the

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piezoelectric element resonator 90. The cited text states that the piezoelectric element is caused to vibrate at a resonant ultrasonic frequency at "a particular frequency and amplitude" (col. 6, lines 36-38)(emphasis added). Note the singular frequency used for vibration at any one time in the range of about 15 MHz to 100 MHz (col. 6, lines 36-37).

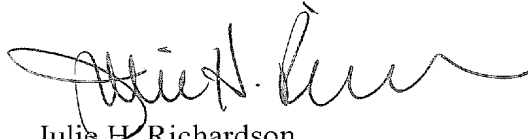
**V. Other**

Applicant also notes that the Office Action Summary sheet states that certain of the pending claims are subject to restriction or election at number 8. Applicant respectfully requests that the Examiner correct this data.

**CONCLUSION**

Accordingly, Applicant submits that the present application is in condition for allowance and the same is earnestly solicited. Should the Examiner have any matters outstanding of resolution, he is encouraged to telephone the undersigned at 919-854-1400 for expeditious handling.

Respectfully submitted,



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**CERTIFICATION OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on September 10, 2009.

Signature: \_\_\_\_\_

  
Cara L. Rose